

# State of Michigan



## Pesticide Advisory Committee

### Fiscal Year 2002 Annual Report

Pesticide Advisory Committee, Michigan Department of Agriculture  
525 West Allegan Street, Constitution Hall, 6<sup>th</sup> Floor  
P.O. Box 30017, Lansing, Michigan 48909

# **PAC Fiscal Year 2002 Annual Report**

The Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of 1994, Part 83, Pesticide Control, is administered by the Michigan Department of Agriculture (MDA) through the Pesticide and Plant Pest Management Division (PPPM). The Pesticide Advisory Committee (PAC) was established under Section 8326 of Part 83, to advise and consult with the Director of the MDA in the administration of the Act.

Under the Act, the PAC is required to publish an annual report to the Governor and the Legislature. This report reflects the enforcement actions taken by PPPM during FY 2002 (October 1, 2001 to September 30, 2002).

The 14-member PAC includes five representatives from governmental and university agencies and nine representatives from citizen and industry groups. Representatives from the citizen and industry groups are private citizens chosen for their knowledge and technical expertise in specific areas set forth in Section 8326, Part 83 of Act 451. A current membership list is appended to this report.

Section 8326(4)(e) specifies four major areas to be detailed in this report, including:

1. A review of the recommendations of the PAC.
2. Recommendations regarding amendatory language for the act.
3. Recommendations regarding resources necessary to adequately implement the act.
4. A summary of annual enforcement actions taken under the act.

---

## **MEETINGS**

The Pesticide Advisory Committee (PAC) meets quarterly, with occasional supplementary meetings called by the Director to address special concerns in a timely manner. The meetings were held in October 2001, and January, April, and July 2002.

---

## **COMMITTEE RECOMMENDATIONS**

Recommendations made to the Director by the Committee from October 2001 through July 2002:

Members of the PAC submitted a resolution for consideration before the committee. The resolution was in response to the impacts of the Food Quality Protection Act on Michigan agriculture. The committee discussed the resolution. The following was approved and sent to the director.

### **Resolution from the Michigan Department of Agriculture's Pesticide Advisory Committee**

#### **WHEREAS:**

The Michigan Department of Agriculture Pesticide Advisory Committee recognizes that the current agricultural economy, coupled with new technology is driving crop protection costs per

acre lower every year, and reducing pesticide applications at a rate never seen before. Some have estimated that this reduction in pesticide sales volume may approach 35% in the 2001 season.

**WHEREAS:**

This has resulted in reduced sales volumes for every agribusiness company, whether manufacturer, distributor or retailer. As a result, all these sectors have suffered economic hardship, and there is no solution in sight that would reverse this situation.

**WHEREAS:**

We also recognize that as a result of this situation, coupled with the requirements of the Food Quality Protection Act, and its effect on the health of infants and children, that new product research has suffered, and companies have dedicated their research dollars and efforts toward new products for more lucrative, higher profit categories such as pharmaceuticals. This has caused special problems for smaller acreage crops such as fruit and vegetables as well as the lawn care industry where potential return on investment for research on new products is not as significant, nor the total potential market as attractive.

**WHEREAS:**

As a result, many companies with presence in the crop protection industry have divested their agricultural companies, and dedicated their resources to other opportunities where potential return on research investment is greater.

**AND, WHEREAS:**

Under the FQPA either some uses or products in total have been lost and there are few if any economically viable replacements in the market.

**NOW, THEREFORE LET IT BE RESOLVED** that the Pesticide Advisory Committee recommends that the Michigan Department of Agriculture should encourage development of new (lower-risk) product research.

**FURTHER BE IT RESOLVED** that MDA with the support of MSU's GREEN program should maintain the department's capacity to respond to Section 18 requests and facilitate the application process.

**FURTHER BE IT RESOLVED** that MDA should encourage and cooperate in FQPA related projects that form a basis for sound scientific policy used in the reassessment process. Particularly in gathering data for use in dietary, residential, water, and occupational risk assessments that replaces assumptions with realistic exposure distributions within the population so that well informed risk management decisions can be made.

**FURTHER BE IT RESOLVED** that MDA continue to recognize the economic significance and importance of pesticides in protecting the quality and quantity of food in the channels of trade. And educate policy makers to the fullest extent possible regarding the health as well as economic impacts of implementation of FQPA related decisions.

**FURTHER BE IT RESOLVED** that MDA continue to recognize an integrated approach to pest management and the most appropriate use of pest management mechanisms.

---

## COMMITTEE DISCUSSIONS

- ◆ The MSU Pesticide Safety and Education Program works with the Michigan Department of Agriculture Pesticide Section to carry out applicator certification and training. Under a Memorandum of Understanding, the Program conducts training and education in at least eight major areas. Each quarter, the Pesticide Education Program reports its activities to the Pesticide Advisory Committee.

The Pesticide Education Program develops and revises applicator-training manuals of which one was completed in FY 2002, namely Category 1B, Vegetable and Crop Pest Management. Manuals currently under preparation are Category 5B, Microbial Pest Management, Category 1C, Fruit Crop Pest Management, Category 8, Public Health, Spanish version of the Michigan Core Manual, Aerial Standard manual, and National Core Manual.

The Pesticide Education Program creates other pesticide-related material, such as slide sets for pesticide training and farm security, brochures for homeowner IPM, mold brochures for homeowners, Safe Transport, Storage and Disposal of Pesticides, Exploring Urban Integrated Pest Management: Activities and Resources of Teaching K-6, and Soybean Aphid (Invasive Specie).

The Pesticide Education Program has also been instrumental in hosting several educational in-service opportunities, namely the MSUE in-service training in October 2001 and the Michigan Agricultural Aviation Association.

- ◆ In the aftermath of the 911 incident, members of the PAC requested an explanation of the Department's actions to protect agribusiness and the food supply. MDA has assisted federal law enforcement officials in identifying licensed aerial applicators in the State of Michigan. Furthermore, MDA developed a letter sent to all commercial pesticide applicators and businesses, and to agricultural applicators and dealers to enhance security/management practices. The recommendations included securing pesticide storage areas and application equipment, inventorying pesticides regularly, documenting the sale and use of all registered use products as described by law, inspection of application equipment, and restricting access to property.
- ◆ MDA produced an overview of the Department's overall bioterrorism and security efforts. The overview includes MDA's programs for ensuring food safety, animal and plant health, and consumer protection. The review included a description of the surveillance, inspection, registration, certification, licensing, and education standards and/or requirements in place that help protect the state's food supply, livestock and environment.

The Department is an active partner in Michigan's emergency management system and regularly participates in preparedness and response drills. MDA's specific responsibilities include: 1) response to threats of food safety and to provide federal surplus food during times of food shortages; 2) provide for the care of animals affected by disasters; 3) respond to animal disease epidemics; 4) respond to agricultural chemical and fertilizer emergencies; 5) monitor, inspect and sample food and animal feed resources; 6) issue regulatory controls, protective orders and advisories to help keep Michigan's food, animal feed, plants and animals safe; 7) provide technical guidance and assistance, including damage

assessments, to local units of government; 8) help provide federal assistance to farmers and agri-businesses that are victims of disasters, and 9) cooperate with other states, governmental, educational and business enterprises to protect Michigan's food, feed, plant and animal health.

- ◆ The PAC invited representatives from the agribusiness community to discuss impacts of the Food Quality Protection Act to the pesticide industry and growers. Some of the challenges are the loss of products sold to growers and the lack of alternative production tools. Alternate products, when available, are cost prohibitive and new product chemistries have been slow to develop and registration of these products is not timely. Furthermore, many companies are unwilling to invest in research. Budget cut backs will also impact research and development into new product research and development no longer becomes a priority.

FQPA has also affected the distribution and sale of pesticides. Discontinued products that are discarded via the clean sweep program, produces loss of money for the dealer due to loss of product use. Risk mitigation actions including changing product formulations from wettable to a flowable pesticide product also produce a loss for the dealer since older products are no longer for sale.

Some challenges on FQPA to the consumer side are that consumers are purchasing large amounts of products to store at home (tried and true working products). The suggestion is one of cost awareness where new products are more expensive and may not work as well.

- ◆ The PAC also discussed worker issues regarding the use of antimicrobials (fungicides and mildewicides). Some companies around the state are involved in mold remediation in water-damaged homes and as a result use disinfectants as part of the treatment. Some have used these products by hand application, painting, rollers, foggers, and hand sprayers. Such practices may violate labeled uses and create additional health concerns. It was suggested that a sub-committee be formed to study the problems associated with the use of antimicrobials among remediators, uncertified applicators, and unlicensed businesses. The sub-committee decided to issue a press release on May 10, 2002, cautioning the public regarding the proper use of disinfectants in remediating mold problems in the home. MSUE also created a brochure entitled, "Molds in the home: What should you do?"

Similarly, the committee discussed false claims regarding the sale and use of ozone generators in the home used as air purifiers. Ozone generators have the potential to decrease air quality in the home leading to health problems. The sub-committee decided to issue a press release on January 17, 2002, indicating that some companies manufacturing ozone generators are making false and misleading claims about their product. Statements may include false claims on the effectiveness of the product and that the devices are recommended or endorsed by the federal government. Citizens are encouraged to report any misleading claims to MDA.

- ◆ The Michigan Department of Agriculture updated the committee regarding its role in the state's West Nile Virus (WNV) outbreak. The Michigan Department of Agriculture has the responsibility of registering pesticides for adulticiding and larviciding, enforcing rules and regulations regarding community spray programs, conducting planned use inspections of all licensed commercial mosquito spraying firms, providing arboviral surveillance updates, maintaining the pesticide notification registries, overseeing the reporting network between MDA and veterinarians on possible animal cases of WNV, collecting animal samples for WNV screening, administering the Michigan Arboviral Surveillance Emergency Response

Plan, and assisting local health departments with the development of mosquito surveillance and contingency plans.

The PAC received continual updates regarding the spread of WNV for 2002 due to the changing nature of the number of WNV positive birds, horses and human cases, numbers will not be reported here. MDA and the Michigan Department of Community Health requested that sightings of dead crows be reported. Citizens were urged to call the WNV reporting hotline at 1-888-668-0869 to report dead birds. Birds submitted to MDCH will be tested for WNV until there is a confirmed positive in the county. After the first positive bird from a county is found, the dead birds will be counted but not tested for WNV. Vector control operations such as larviciding and adulticiding are the purview of local government. MDA can assist local communities with mosquito surveillance and control information.

MDA also conducts active surveillance for WNV in Michigan horses by coordinating reporting among the state's equine and large animal veterinarians. If a horse is reported to MDA, MDA is responsible to deliver the head or body to the MSU-Animal Health Diagnostic Laboratory.

- ◆ The PAC also received notice that Emerald Ash Borer *Agrilus planipennis* Fairmaire (Coleoptera: Buprestidae), an exotic beetle which feed on ash trees (*Fraxinus sp.*), was discovered in southeastern Michigan. This pest was identified in July 2002 as the cause for the decline in ash tree populations. The larvae feed in the phloem and outer sapwood, producing galleries that eventually girdle and kill branches and entire trees. Evidence suggests that *A. Planipennis* has been established in Michigan for at least five years in five southeastern counties: Wayne, Oakland, Macomb, Washtenaw, and Livingston. In response, state agriculture officials quarantined all ash trees and timber products in the affected counties to help prevent and control the spread of this pest. Under this quarantine, ash trees, branches, logs, and firewood may not be moved outside the affected area unless certified for movement by the Michigan Department of Agriculture.
- ◆ The PAC also reviewed the current practices regarding composting of material contaminated with Clopyralid. Clopyralid is the active ingredient in herbicides marketed under several trade names including Confront, Accent Gold, Homet and Stinger. These products are registered for use primarily on field corn, wheat and turf. Recent incidents in the states of Washington, California, and Pennsylvania have shown that Clopyralid does not degrade in the composting process. As a result, compost created from yard clippings treated with Clopyralid containing products is capable of killing desirable plants in very low concentrations.

MDA has been working with members of the Michigan Composting Council to address their concerns regarding the potential for Clopyralid residues showing up in Michigan compost. The manufacturer of clopyralid, Dow AgroSciences, is currently in negotiation with EPA over label changes, which will most likely result in removal of all residential turf uses from the label. Dow AgroSciences has offered to do sample analysis for Michigan composters if it becomes necessary.

- ◆ Various aspects regarding the impacts of GMOs in the state were discussed. The PAC invited a speaker to discuss the global Ag/Biotech market and the benefits of GMOs namely insect and herbicide resistant products. Marketing of GMOs was discussed regarding the segregation of GMO and non-GMO products into the marketplace, quality testing, organization of quality assurance, and the quality assurance system. The PAC also

discussed the consequences of non-approved events making it to market and molecular analysis to ensure unintended entry into the marketplace.

- ◆ The Michigan Migrant Legal Assistance Project (MMLAP) in cooperation with MDA conducted a survey of migrant camps. The PAC received an update on the project entitled, "Migrant Worker Issues and Migrant Camp Survey Results - Pilot Year 2001." The objectives were: 1) develop a survey tool that focuses on children's exposure and 2) compare the results with national data as blue print for future project.

The survey targeted family style housing (occupancy over 10 with two separate units). Surveys were administered by trained by full time MMLAP staff at every other housing unit. The information gathered was obtained verbally and considered voluntary and confidential.

The major findings from the demographic information available are: 1) 47% of the subjects were between ages 21 and 30, 2) 59% had a family size of between 3 and 5, 3) 70% had children living with them, 4) 65% spoke little to no English, 5) 29% have been working in the fields for 5 or less years, 6) 26% were working in the fields for 11 to 15 years, and 7) 94% spent over five months a year working in the fields.

Information regarding children's exposure to pesticides was also collected. The major findings were: 1) 62% of children do not work in the fields, 2) 9% of the children play near the fields, 3) head start is available for 44% of them, but most daycare is provided by relatives, 4) 18% of daycare is only 50 feet from the fields, and 5) another 18% of daycare is 300 feet from the field.

The results of this study are intended to be used as a basis for further study including the study to include drift and duration of re-entry intervals.

- ◆ Other issues brought before the PAC committee were as follows:
  - Press Releases from PAC membership
  - Michigan Primary Care Association's Plan of Action for Improving the Health of Migrant and Seasonal Farm Workers
  - MDCH's active surveillance system for work-related pesticide illnesses
  - Revisions to Acts 451 and Acts 636 and 637
  - Operation Safe Fly In for Aerial Applicator Program
  - P&PPM Division Personnel Updates
  - Gypsy Moth Suppression Program Progress Report

---

## **ENFORCEMENT ACTIONS TAKEN UNDER ACT 451, PART 83, PESTICIDE CONTROL**

In FY'02, the pesticide program's enforcement activities continued to address significant issues of pesticide misuse, uncertified or unregistered applicators, unlicensed commercial pesticide applicator firms, and non-compliance with state statutory requirements. The enforcement program oversees inspection and investigation activities for the pesticide section. These activities include:

- Conducting pesticide use/misuse investigations
- Inspecting pesticide producing establishments and pesticide marketplace locations
- Auditing of restricted use pesticide (RUP) dealer sales and commercial applicator records
- Addressing pesticide use violations related to food safety and farm worker protection
- Implementing federal and state targeted compliance monitoring initiatives

Other enforcement activities include marketplace surveillance for unregistered pesticides and proper pesticide labeling, contacts with applicators and RUP dealers to assure compliance with certification and licensing requirements, and special projects like the federal Urban Initiative.

In FY'02, enforcement activities continued to address significant issues of pesticide misuse in the urban environment, including use of agricultural pesticides to control urban pests, uncertified or unlicensed commercial pesticide applicators, and compliance with federal and state pesticide use regulations.

## Use Investigations

MDA tracks numerous pesticide contacts and inspections, initiated by MDA through a separate pesticide contact data tracking system. Therefore, the number of Pesticide Use Investigations generally reflects investigations initiated by complaints received from public or private sectors.

MDA conducted 165 Pesticide Use Investigations (UI's), of which, 39 occurred in agricultural situations and 126 occurred in non-agricultural situations. Of the agricultural use investigations, 26 involved commercial applicator firms, 5 of which were aerial application firms and one restricted use pesticide dealer. Thirteen investigations involved private applicators, 5 of which were applicators were not known.

Of the 126 Non-Ag UIs, 2 involved homeowners and 124 specifically involved commercial applicators in the following categories:

Category of the Commercial Applications	Number of FY '01 Use Investigations
Turf Grass (3A)	55
Ornamentals (3B)	13
Aquatics (5)	8
Right of Way (6)	9
General Pest Management (7A)	30
Wood Destroying Organisms (7B)	4
Vertebrate Pest Management (7D)	3
Interior Landscaping (7E)	1
Aerial (AE)	1

## UI Enforcement

MDA closed 94 of the 165 total FY '02 UIs during FY '02. Fifteen investigations were closed with disposition letters indicating that no violations were found. Ten investigations were closed with advisory letters indicating that violations were suspected but could not be verified. Thirty-one were

closed with warning letters indicating MDA found evidence that violations did occur. Notices of Intent (NOIs) were issued for twenty-seven investigations. Two investigations were resolved via criminal prosecution and nine required no enforcement action. In addition, MDA also closed 101 FY'01 investigations during FY'02.

<b>Enforcement Action (FY 2002 cases)</b>	<b>Number of Actions</b>
No enforcement actions required	9
Disposition Letters	15
Advisory Letters	10
Warning Letters	31
Informal Hearings	0
Notice of Intent	27
Prosecution	2
Referrals	0
<b>Totals:</b>	<b>94</b>

During FY'02, MDA regional offices continued to take action on investigations that resulted in the determination that no violations either occurred or could be confirmed. The regional offices closed those cases with disposition or advisory letters. Investigations that resulted in the determination of a low-level violation continued to result in a warning letter being issued from the regional office under signature of the regional supervisor. The majority of these letters required a 20-day written response to MDA from the firm/individual involved. Any enforcement action more severe than a warning letter continues to be coordinated through the MDA Lansing office and the Pesticide Enforcement Manager.

MDA continued to issue Notices of Intent (NOIs) that outline MDA's intent to initiate administrative proceedings or criminal prosecution actions. The NOI provides MDA an opportunity for a settlement in the form of a consent agreement and final order as well as a civil penalty.

## **Planned Use Inspections**

MDA conducted 104 Planned Use Inspections (PUIs) in FY'02, representing a 139% achievement of the FY'02 MDA/EPA grant commitment. Of these, 32 were at agricultural sites; 25 of which involved private applicators, and 7 of which were with commercial firms. MDA conducted 72 PUIs at non-agricultural sites, 54 of which were conducted at commercial pesticide application firms.

## **Pesticide Contacts**

Through the Pesticide Contacts (PCT) tracking system, a total of 1,077 contacts were conducted in FY' 02. These focused inspections or contacts include targeted inspections of specific pesticide use activities, road check inspections, informational contacts, compliance assistance and outreach, and monitoring for compliance with state regulatory requirements. Some contacts contain specific orders to stop prohibited conduct such as failure to renew the firm's commercial pesticide applicator license.

MDA issued 363 contacts to commercial firms either needing to renew their pesticide applicator business license or obtain a license. Additionally, 56 contacts were made with firms/individuals interested in becoming licensed/certified. MDA made 42 contacts with various individuals regarding

pesticide use concerns. MDA issued 313 Stop Orders to pesticide application businesses that had yet to renew their license for 2002.

During the application season, MDA conducted 99 road check inspections. If possible, these inspections involve the observation of a pesticide application. At a minimum, MDA inspects the application equipment along with conducting a comprehensive interview with the applicator. The focus of the inspection is to identify the areas of Act 451, Regulation 636 and 637 in which the firm is in compliance.

Inspections target pesticide label use directions for the products being used, licensing, certification, customer service agreements, application information and personal protective equipment. Approximately 44% of the road check inspections completed in FY '02 were conducted in Region VII, which comprises the Detroit metropolitan area and contains close to 34% of the licensed commercial applicator firms in Michigan. Most road checks are conducted with firms working in the turf and ornamental industry.

From the FY'02 contacts, MDA issued 444 Stop Prohibited Conduct Orders, 22 Warning Letters, 1 Disposition Letter, 10 Advisory Letters, 5 Notices of Intent, and held 2 informal hearings.

## **Producer Establishment Inspections**

During FY'02, MDA conducted 55 Pesticide Producer Establishment Inspections (PEIs), the majority of which have already been referred to EPA for enforcement action or review. These inspections represent an accomplishment of 122% of the commitment in this program area for FY'02. Twenty-four inspections were conducted at bulk repackagers. Sixteen inspections specifically included WPS product label reviews for a total of 58 pesticide product label reviews. Eleven inspections specifically targeted antimicrobial pesticide product label reviews for a total of 28 different documentary samples collected for label reviews.

## **Federal Marketplace Inspections**

During FY'02, MDA conducted twenty-five federal Marketplace Inspections (MPIs), the majority of which have been referred to EPA for enforcement action or review. These inspections represent a 100% accomplishment of the commitment in this program area for FY'02. Seven specific inspections were conducted that focused on antimicrobial products. These inspections included a total of 16 different antimicrobial documentary samples collected for product label reviews and 13 products sampled.

## MICHIGAN PESTICIDE ADVISORY COMMITTEE – 2002 Members

**CHAIRMAN**  
Dan Wyant, Director  
Michigan Department of Agriculture

Represented  
by

Dr. Brian J. Hughes  
Michigan Department of Agriculture

### GOVERNMENT AND UNIVERSITY REPRESENTATIVES

Dennis Bush  
Surface Water Quality Division  
Michigan Department of Environmental Quality  
P.O. Box 30028  
Lansing, MI 48909

Representing

Russell J. Harding, Director  
Michigan Department of Environmental Quality

Frank Sapio  
Forest Management Division  
Michigan Department of Natural Resources  
P.O. Box 30452  
Lansing, MI 48909

Representing

K. L. Cool, Director  
Michigan Department of Natural Resources

Jill Granger  
Environmental and Occupational Epidemiology Division  
Michigan Department of Community Health  
P.O. Box 30195  
Lansing, MI 48909

Representing

James Haveman, Director  
Michigan Department of Community Health

Dr. Chris DiFonzo  
Pesticide Impact Assessment Program  
B18 Food Safety & Toxicology Center  
Michigan State University  
East Lansing, MI 48824

Representing

Dr. Maggie Bethel, Director  
Michigan State University Extension

### CITIZEN AND INDUSTRY REPRESENTATIVES

Tim Doppel	representing	Licensed Outdoor Commercial Applicators
Randall Ettema	representing	Agricultural Chemical Industry
Delbert Finup	representing	Licensed Aerial Applicators
Teresa Hendricks	representing	Farm Employees
Russell Ives	representing	Michigan Pest Control Association
Philip J Korson II	representing	Agricultural Producers
Victor Roth, MD	representing	Medical or Health Science Profession Experienced in Toxicology of Pesticides
Roger Wabeke	representing	Non-Governmental Organizations with Human Health Interests
William Weil, MD	representing	Non-Governmental Organizations for Environmental Preservation